

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

**APR 08 2019**

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

Charmane Smith,

Plaintiff,

v.

Athenahealth, Inc. *et al.*,

Defendants.

Civil Action No. 19-740 (UNA)

**MEMORANDUM OPINION**

This matter is before the Court on its initial review of plaintiff's *pro se* complaint and application for leave to proceed *in forma pauperis*. The Court will grant the *in forma pauperis* application and dismiss the case pursuant to 28 U.S.C. § 1915(e)(2)(B) (requiring dismissal of a case upon a determination that the complaint fails to state a claim upon which relief may be granted, is frivolous, or seeks monetary relief from an immune defendant).

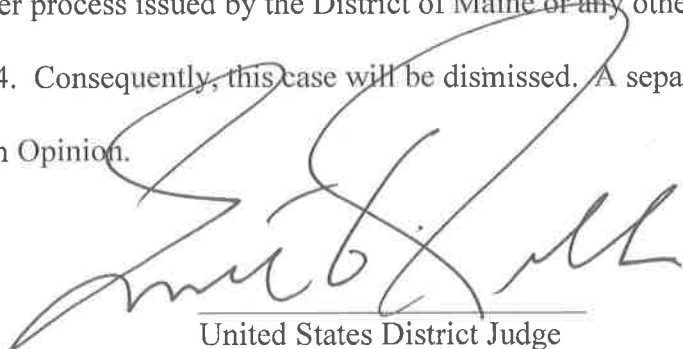
Plaintiff is a resident of Memphis, Tennessee. She has brought suit against Athenahealth, Inc., as well as a U.S. District Judge and a U.S. Magistrate Judge in the United States District Court for the District of Maine. *See* Compl. at 1. Plaintiff alleges that the defendants "committed Fraud on [the] Court" and engaged in a "Conspiracy to Obstruct Pending Federal Court Proceedings." Compl. at 2. In addition, plaintiff claims that the defendants violated her "Civil and Constitutional rights, in furtherance of Obstruction of Justice." *Id.* As for Athenahealth specifically, plaintiff appears to allege that it has evaded service of process and that the judicial defendants either conspired with Athenahealth and/or "aid[ed] and abet[ted] its intent to avoid Civil Summons/Service and the Requirement to Answer/Respond to the lawsuit filed

against it, Civil Case # 1:18-cv-00461-GZS.” *Id.* Plaintiff seeks \$60 million in monetary damages. Compl. at 4.

An “*in forma pauperis*” complaint is properly dismissed as frivolous . . . if it is clear from the face of the pleading that the named defendant is absolutely immune from suit on the claims asserted.” *Crisafi v. Holland* 655 F.2d 1305, 1308 (D.C. Cir. 1981). Additionally, a complaint that “lacks an arguable basis either in law or in fact” may be dismissed as frivolous. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Judges enjoy absolute immunity from suits based on acts taken in their judicial capacity, so long as they have jurisdiction over the subject matter. *Moore v. Burger*, 655 F.2d 1265, 1266 (D.C. Cir. 1981) (per curiam) (citing cases). The complaint against the named District Judge and Magistrate Judge presumably stems from their actions during court proceedings and thus is “a meritless action.” *Fleming v. United States*, 847 F. Supp. 170, 172 (D.D.C. 1994), *cert. denied* 513 U.S. 1150 (1995). Therefore, the complaint against the judicial defendants will be dismissed with prejudice as frivolous.

With respect to Athenahealth, a “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Plaintiff has not “state[d] with particularity the circumstances constituting fraud[.]” Fed. R. Civ. P. 9(b). Even if plaintiff could prove her allegation that Athenahealth has evaded service, moreover, this Court cannot exercise jurisdiction over process issued by the District of Maine or any other court. *See generally* Fed. R. Civ. P. 4. Consequently, this case will be dismissed. A separate order accompanies this Memorandum Opinion.

Date: April 1, 2019



United States District Judge